

**A BILL FOR AN ORDINANCE TO AMMEND CHAPTER 21 OF THE
KAUA'I COUNTY CODE, RELATING TO INTEGRATED SOLID WASTE
MANAGEMENT, ADDING A NEW SECTION REQUIRING RECYCLING
BY BUSINESSES, GOVERNMENTAL AGENCIES, INSTITUTIONS, AND
MUTI-FAMILY PROPERTIES.**

DRAFT UPDATED January 27, 2015

WHEREAS, solid waste generated by commercial entities accounts for the majority of all materials disposed of in the County's landfill; and

WHEREAS, a large percentage of such solid waste is composed of recyclable materials; and

WHEREAS, existing processing capacity and material markets currently exist for a significant quantity of the recyclable material presently disposed of at the Kekaha Landfill; and

WHEREAS, the County of Kaua'i desires to implement a program to encourage the diversion of those *Designated Recyclable Materials* from landfill disposal;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF
KAUA'I, STATE OF HAWAII:**

Chapter 21 of the County Code is amended by adding a new part to be numbered and entitled and to read as follows:

Part XX

BUSINESS RECYCLING

Section 1 PURPOSE: It is the intent and purpose of the Kaua'i County Business Recycling Ordinance to encourage and facilitate the maximum recycling practicable on the part of all Commercial Generators in Kaua'i County.

A. The Kaua'i County Business Recycling Ordinance shall establish, implement and enforce minimum recycling requirements, practices and procedures to be applicable to all Commercial Generators within the County by:

- 1) Requiring all types of Commercial Generators (Businesses, Governmental Agencies, Institutions, and Multi-family Residences, etc.), on the island of Kaua'i to keep all *Designated Recyclable Materials* separate from all other solid waste for recycling, and provide for the collection of those recyclable materials.
- 2) Requiring Commercial Generators to inform their employees, customers, tenants, and residents of the requirements of this ordinance.

B. If any portion of this ordinance is for any reason held invalid or unconstitutional by any decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining parts.

Section 2 APPLICABILITY:

- A. This ordinance shall be applicable only on the Island of Kaua'i.
- B. The requirements of this ordinance shall only apply to those *Designated Recyclable Materials* as defined in Section 3 – D and detailed in Attachment A.

Section 3 DEFINITIONS:

For the purposes of this chapter, certain terms used herein are defined as set forth below:

- A. Commercial Generator: Any business, governmental agency, institution, or multi-family residence generating refuse on Kaua'i, including but not limited to: offices & general retail business; wholesale business & suppliers; hotels & resorts; food & beverage services; government agencies; schools, hospitals, industrial businesses, condominiums; and apartments.
- B. Commercial Recycling Collector: Any person or business contracted for the purpose of collecting Recyclables from Commercial or Residential Generators for delivery to a recycling facility.
- C. Corrugated Cardboard: Containers, boxes and packaging, made of containerboard (a normally brown high strength paperboard comprised of two main components: the liner and the corrugated medium).
- D. Designated Recyclable Materials: Those Recyclables currently designated by the Kauai County Engineer for inclusion in the Kaua'i County Business Recycling Ordinance, and for which it has been determined that adequate recycling processing capacity and markets exist:
- E. Food and Beverage Service Establishments: Commercial operations where food and / or beverages are provided for on-site consumption
- F. Foodwaste: Uneaten food and food preparation wastes from residences and commercial establishments such as grocery stores, restaurants, and produce stands, institutional cafeterias and kitchens, and industrial sources like employee lunchrooms.
- G. Glass Beverage Containers: Empty, rinsed, glass beverage containers including, but not limited to water, soft drinks, energy / vitamin drinks, beer, wine, and liquor.
- H. Greenwaste: Yard and landscaping trimmings including leaves, grass clippings, brush, trees, tree trimmings, tree trunks, stumps, and land clearing debris.
- I. HI-5 (Deposit / Redemption) Beverage Containers: Empty, rinsed beverage containers made from aluminum, bi-metal, plastic or glass and identified as redeemable under the Hawai'i Deposit Beverage Container Law (HRS Chpt 342G, Pt VIII)
- J. Steel Cans: Empty, rinsed steel containers used for food and beverages (often called "Tin Cans")
- K. Mixed Paper: Includes discarded and bulk mail, computer paper, colored paper, greeting cards, wrapping paper and carbonless multi-part forms. Also includes Kraft Paper (brown paper bags and package wrapping), paperboard or boxboard (packaging as found in cereal, cracker and tissue boxes, etc.)

- and magazines and catalogues. Excludes any paper coated with foil or plastic.
- L. Newspaper, Includes common machine finished paper made chiefly from wood pulp used for printing newspapers, as well as glossy inserts, Must be free of all contaminants.
 - M. Office Paper: All bond paper, computer printout, stationery, photocopy and ledger paper of any color (including shredded paper) from all Commercial Generators. Paper should, if possible, be free of tape, adhesives, labels, rubber bands, paper clips, binders and other contaminants. This term excludes carbon paper, chemical transfer paper and plastic coated envelopes.
 - N. Owner: The person or entity who owns a business, non-residential property, multi-family residential property, or agricultural property. An owner may also be a generator.
 - O. Permitted Recycling Facility: means a business, or non-profit organization receiving and processing collected materials for remanufacture and holding a current solid waste management permit from the Department of Health, State of Hawai'i.
 - P. Plastic Film: Film made from polyethylene, polypropylene, polystyrene, polyvinyl chloride, and other resins; used for packaging, wrapping, sealing, garment protection, waterproofing, agricultural purposes, etc.
 - Q. Property Manager: A person or firm charged with operating real property (may also be the owner), for residential, commercial office and retail or industrial use.
 - R. Recycling Documents: Includes, but are not limited to, service agreements, self-haul forms, invoices for recyclables, compliance documentation, education material, and signs.
 - S. Recycling Facility: A facility, permitted by the State of Hawai'i, Dept of Health, which receives, processes and markets collected recyclables.
 - T. Recycling Report: Annual report on a standardized form generated and disseminated by the Solid Waste Division.
 - U. Responsible Party: The Responsible Party means whoever contracts for solid waste removal service for Commercial Generators. For a property with multiple business tenants, the Responsible Party shall be the property owner, manager or agent who subscribes for trash collection, unless each business contracts for their own waste management.
 - V. Scrap Metal: All ferrous and non-ferrous scrap metal, including but not limited to framing, wire, pipes, tubing, motors, sheet metal, appliances, fixtures, etc.
 - W. Self Hauler: a Commercial Generator or employee designated by the owner or generator who transports and hauls recyclable material from the Commercial Generator in a vehicle owned either by the generator or the employee to a Permitted Recycling Facility.
 - X. Self-Hauling Form: The form provided by the County Engineer or his designee on which Commercial Generators certifies that all self hauling activities will be completed in accordance with this ordinance

- Y. Service Agreement : A written contract or agreement between a Commercial Hauler or Permitted Recycler and the Commercial Generator concerning the collection of recyclable materials
- Z. Source Separation: The segregation of disposable materials into recyclable material and non-recyclable waste.
- AA. Tenant: A person who pays rent to occupy a building owned by someone else.

Section 4 DESIGNATION OF RECYCLABLES: The County Engineer or his/her designee, shall have the authority designate or amend the list of *Designated Recyclable Materials* that shall be source separated by Commercial Generators, owners, or operators, consistent with the purpose of this law. Such a designation shall consider types of materials generated by various business types, available processing capacity, and market conditions.

- A. The County Engineer shall have the authority to amend (add or delete) materials from this list as processing capabilities and market conditions change.
- B. In addition, all Commercial Generators are encouraged to consider recycling additional materials, whether or not they have been designated as recyclable materials.

Section 5 BUSINESS RECYCLING REQUIREMENTS: All Commercial Generators on Kaua'i who generate three (3) or more cubic yards of refuse per week shall:

- A. Separate for diversion all Designated Recyclable Material generated as a part of normal operations.
- B. Subscribe to a recycling collection service that collects Designated Recyclable Materials; OR self-haul the materials to a Permitted Recycling Facility.
- C. Submit an annual report to the Solid Waste Division as described in Section 8.
- D. In the case of a property owner, manager or agent who manages refuse for a number of tenants, the property owner, manager or agent shall be responsible for insuring recycling opportunities are available for their tenants, and submitting an annual report for the subject property.

Section 6 RECYCLING GUIDELINES: In order to meet the recycling requirements, it is recommended that commercial generators institute a program based on the guidelines below:

- Select a Recycling Coordinator: Designate a staff person who is responsible for developing, monitoring, and enforcing the recycling program.
- Place recycling containers in employee, maintenance or work areas where designated recyclable materials may be generated, collected and/or stored.
- Prominently post signs in work areas where designated recyclable materials are generated collected and/or stored that instruct employees about what and how to recycle.

- In customer service areas, where designated recyclables may be generated, prominently place labeled recycling containers near garbage bins to collect recyclable materials from customers.
- Provide written instructions notifying employees about what and how to recycle.
- Ensure that designated recyclable materials generated on-site are transported to a recycling facility for recycling, and not disposed at landfill.
- Retain on-site, service agreements or other recycling documents.

Additional assistance and details will be available in a “How To” guide developed by the Department.

Section 7 REQUIREMENTS FOR RECYCLING COLLECTORS and RECYCLING FACILITIES:

- A. Commercial Recycling Collectors shall, on request, provide the Department with specific information related to the service agreement demonstrating that the Generator’s recyclable materials are being taken to a recycling facility. The agreement shall describe the services provided including the frequency and type(s) of materials collected.
- B. Commercial Recycling Collectors shall provide the Department with an annual report indicating total tonnage, by material, collected from Commercial Generators.
- C. Recycling Facilities must obtain and maintain all necessary solid waste permits and local zoning approvals
- D. Recycling Facilities shall submit annual reports to the County documenting tonnages of diverted materials received and processed from Commercial Generators and Recycling Collectors, and any non-recyclable residues disposed of.

Section 8 REQUIREMENTS FOR SELF HAUL:

- A. Commercial Generators may haul or transport recyclable materials generated at its business to a recycling facility rather than entering into a service agreement with a Commercial Waste Hauler.
- B. The County Engineer may deny the Commercial Generator’s authorization for self hauling if he / she determines that activities violate provisions of this ordinance or any other applicable law or regulation.

Section 9 RECYCLING (DIVERSION) REPORTS:

- A. Commercial Generators must complete and submit an annual report to the Solid Waste Division. The report will be submitted on a standardized form generated and disseminated by the Solid Waste Division.
- B. Commercial Generators who choose to self-haul their recyclables shall also include the name and location of the recycling facility (ies) to which the materials were taken
- C. All reports are due on or before July 31st (the end of the first month following the end of the Fiscal year).

Section 10 EXEMPTIONS FROM RECYCLING REQUIREMENTS: Notwithstanding any other provision herein, a Commercial Generator shall be exempt from the requirements of this ordinance:

- A. If the Commercial Generator generates less than three (3) cubic yards of refuse per week.
- B. If the amount of any single Designated Recyclable Material comprises less than 5% of their municipal solid waste the generator shall be exempt from diverting that material.
- C. If the owner or operator can demonstrate that due to lack of space, or adequate access that compliance would result in violation of law. This demonstration shall be verified through site visit by Department staff.
- D. An application for exemption due to spacial and access considerations shall be submitted on a form available from the Department of Public Works.
- E. Multi-family generators of less than 15 residential units shall be exempt from the requirements of this ordinance.
- F. Multi-family generators will be exempt from the requirements for mixed paper until such time that a facility for processing comingled recyclables is available.

Section 11 PROGRAM IMPLEMENTATION: There shall be an “Aloha” period of a minimum of 12 months from the passage and effective date of this ordinance prior to the implementation of the specific recycling requirements.

During that period the Department will develop and carry out extensive education and outreach efforts including expanding the existing Waste Audit program, providing training and technical assistance to local businesses, developing and disseminating a “How To” guidebook for Commercial Generators, and making electronic copies of recycling posters, employee instructions, and signage available to businesses.

Section 12 ENFORCEMENT: The County Engineer or his/her designee shall have the responsibility and the authority to enforce this ordinance through random inspections and/or review of Recycling Documents

- A. It shall be unlawful for any Commercial Generator to fail to meet the meet any of the Business Recycling Requirements (Section 5) or any other provisions of this ordinance;
- B. Failure of a Commercial Generator, Collector, or Permitted Recycler to comply with those provisions of the Kaua’i County Business Recycling Ordinance designated as violations shall carry a fine of Fifty Dollars (\$50.00) for the first violation; One Hundred Dollars (\$100.00) for the second; Two Hundred Dollars (\$200.00) for the third, and Five Hundred Dollars (\$500.00) for each subsequent violation.
- C. One hundred percent (100%) of the fines collected in the enforcement of this Law shall be retained by the Division to be used to support enforcement of this Law and to support recycling education programs.
- D. **EFFECTIVE DATE:** The County Business Recycling Ordinance shall become effective on July 1, 2016.

Attachment A

DESIGNATED RECYCLABLE MATERIAL Jan 1, 2015

Recyclable materials currently designated for diversion by the County Engineer include:

- 1) All Commercial Generators
 - a) Corrugated Cardboard
 - b) Mixed Paper (including Office Paper and Newspaper)
 - c) Greenwaste
 - d) Scrap Metal
- 2) Food & Beverage Establishments (in addition to the above)
 - a) Redemption Beverage Containers